



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

58

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------|----------------------|
| 10/644,197 | 08/19/2003 | Frano Luburic | ROPAK-P3024 | 5746 |
| 21259 | 7590 | 02/02/2005 | EXAMINER [REDACTED] | NGO, LIEN M |
| J MARK HOLLAND & ASSOCIATES 3 CIVIC PLAZA SUITE 210 NEWPORT BEACH, CA 92660 | | | ART UNIT [REDACTED] | PAPER NUMBER 3727 |

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/644,197 | LUBURIC, FRANO | |
| | Examiner | Art Unit | |
| | LIEN TM NGO | 3727 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 August 2003.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 6-13 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 6-13 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 6-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claim 6, "said outer contact surface being generally planar across its entire height" is not supported in the specification.

3. Claims 9 and 12 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

"said tongue member is misaligned horizontally with respect to said groove member" is not supported in the specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, lines 7 and 8, "said abutment" and "said tongue and groove" lack antecedent basis.

In claims 8-13, "said tongue member" and "said groove member" lack antecedent in claim 6; and "said groove member" lacks antecedent basis in claim 7.

In claims 9 and 12, it cannot be determined what is required for "said tongue member is misaligned horizontally with respect to said groove member".

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 6-8, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Widen et al. (4,444,332). Widen et al. disclose, in figs. 1 and 2, an apparatus comprising a container having an upper edge 20, a lid having a channel 28, tongue and groove members 32, 10, 34, 36, 14 and 16 provided and abutment to form a seal with the upper edge of the container, the tongue and groove members providing an inner

contact and an outer contact surfaces between the lid and the container, the inner contact surface extending toward the bottom the container at least as far as the outer contact surface. The tongue and groove member further comprises a groove element 14, 18 formed in a horizontal surface of the container, a tongue member formed in a horizontal of the lid, wherein the tongue element is slightly larger than the groove element (see col. 2, lines 56-58), and an engagement detents 40 and 24.

8. Claims 6, 7, 10, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Von Holdt, Jr. (6,619,498). Von Holdt discloses, in fig. 2, an apparatus comprising a container having an upper edge 54, a lid having a channel, tongue and groove members provided and abutment to form a seal with the upper edge of the container, the tongue and groove members providing an inner contact and an outer contact surfaces between the lid and the container, the inner contact surface extending toward the bottom the container at least as far as the outer contact surface. The tongue and groove member further comprises a groove element 48 formed in a horizontal surface of the container, a tongue member 52 formed in a horizontal of the lid, and engagement detents and 60.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3727

10. Claims 6-8, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Widen et al. in view of Luburic et al. (5,626,251).

To the degree it can be argued that Widen et al. do not disclose an outer contact surface being generally planar because the container and the lid are not rectangular. Luburic et al. teach shapes of a container and lid can be round or rectangular. Therefore, it would have been obvious to make the Widen et al. container and lid being rectangular, as taught by Luburic, as one's desired for shapes of a container and lid.

11. Claims 6, 7, 10, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Holdt, Jr. in view of Luburic et al. (5,626,251).

To the degree it can be argued that Von Holdt, Jr. do not disclose an outer contact surface being generally planar because the container and the lid are not rectangular. Luburic et al. teach shapes of a container and lid can be round or rectangular. Therefore, it would have been obvious to make the Von Holdt container and lid being rectangular, as taught by Luburic, as one's desired for shapes of a container and lid.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

Art Unit: 3727

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 571-272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LIEN TM NGO
Primary Examiner
Art Unit 3727

January 27, 2005

